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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Curiel, D. & Yamamoto, M.	§	ART UNIT:
	§	
FILED: December 7, 2001	§	
	§	EXAMINER:
SERIAL NO.: 10/005,964	§	
	§	
FOR: Adenoviral Vector Containing	§	
Cyclooxygenase-2 Promoter	§	DOCKET:
and Uses Thereof	§	D 6384

The Honorable Commissioner of Patents  
Box DAC  
Washington, D.C. 20231

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8

Dear Sir:

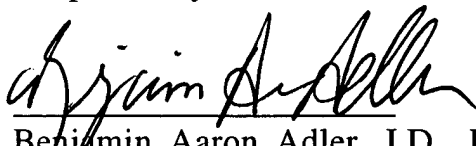
I hereby certify under 37 CFR 1.8 that the following correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to The Honorable Commissioner of Patents, Box DAC, Washington DC 20231.

- 1) Petition under 37 C.F.R. 1.183;
- 2) Declaration;
- 3) Copies of telephone bill;
- 4) Copies of CM1.10 and the return postcard; and
- 5) Return postcard.

Please return the enclosed postcard acknowledging receipt of this correspondence.

Respectfully submitted,

Date: April 5, 2002  
ADLER & ASSOCIATES  
8011 Candle Lane  
Houston, Texas 77071  
(713) 270-5391  
BADLER1@houston.rr.com

  
Benjamin Aaron Adler, J.D., Ph.D.  
Registration No. 35,423  
Counsel for Applicant

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OFFICE OF PETITIONS



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Curiel, D. & Yamamoto, M.

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SERIAL NO.: 10/005,964

FOR: Adenoviral Vector Containing  
Cyclooxygenase-2 Promoter  
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§ D6384

The Honorable Commissioner of Patents  
Box DAC  
Washington, D.C. 20231

PETITION TO SUSPEND THE RULES UNDER 37 C.F.R. 1.183

Dear Sir:

Applicants hereby petition under 37 C.F.R. 1.183 that the filing date accorded the above-referenced patent application be changed to December 4, 2001, the date the application was mailed, based on the information received via a telephone conversation with the Patent Office concerning the procedure for emergency provisions under 37 C.F.R. 1.6 for mailing correspondence normally sent via Express Mail Post Office to Addressee under 37 C.F.R. 1.10. Applicants enclose a Declaration detailing the events and believe this constitutes extraordinary circumstances under which to suspend the rules and to grant the petition. Applicants further enclose copies of the Certificate of Mailing and of the date-stamped return postcard dated by Applicants December 4, 2001 identifying that the documents received were the filing documents for the above-referenced patent application.

Please debit the \$130 Petition Fee under 37 C.F.R. 1.17(h) from Deposit Account No. 07-1185.

04/18/2002 GTEFFERA 00000056 071185 10005964

01 FC:122 130.00 CH

Date: April 5, 2002  
ADLER & ASSOCIATES  
8011 Candle Lane  
Houston, Texas 77071  
(713) 270-5391  
BADLER1@houston.rr.com

Respectfully submitted,

Benjamin Aaron Adler, J.D., Ph.D.  
Registration No. 35,423  
Counsel for Applicant

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**APPLICANT:** Curiel, D. & Yamamoto, M.

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**ART UNIT:**

**FILED:** December 7, 2001

**EXAMINER:**

**SERIAL NO.:** 10/005,964

**FOR:** Adenoviral Vector Containing  
Cyclooxygenase-2 Promoter  
and Uses Thereof

**DOCKET:**  
D6384

The Honorable Commissioner of Patents  
Box DAC  
Washington, D.C. 20231

**DECLARATION**

Dear Sir:

I, Colleen M. Werner, do hereby depose and say as follows:

1. I am an employee of the law firm of Benjamin Aaron Adler, Registration No. 35,423, attorney of record for U.S. Ser. No. 10/005,964, accorded a filing date of December 7, 2001.

2. I placed a telephone call to the United States Patent Office either on November 20<sup>th</sup> or on November 30<sup>th</sup> to inquire about the Notification Related to United States Postal Service Interruption issued by the Office of Patent Legal Administration which I had read but had found confusing. I do not have the name of the person with whom I spoke. Nor do I remember if this conversation occurred immediately or if I left a message and received a return phone call.

3. I asked whomever I spoke with to explain to me how to use the temporary P.O. Box in Arlington, Virginia assigned for correspondence filed under 37 C.F.R. 1.10. I was told that if this address together with the

Box the correspondence was to be directed, i.e., Box Patent Application, was placed on a Certificate of Mailing, the attached correspondence would be received as though mailed according to 37 C.F.R. 1.10. I further inquired how this was to be mailed and was informed that it could be mailed via the U.S. Postal Service First Class Mail since express mail was not being accepted.

4. I acted in good faith on this information and I believed that this procedure would accord the filing date as that date on the Certificate of Mailing. I deposited the documents identified on the enclosed return postcard with the U.S. Postal Service as First Class Mail on December 4, 2001 to: The Honorable Commissioner of Patents, U.S. Patent and Trademark Office, P.O. Box 2327, Box Patent Application, Arlington, VA 22201.

5. A true copy of the Certificate of Mailing and of the date-stamped return postcard for the above-referenced international patent application are attached hereto.

6. True copies of the phone bills detailing long distance calls placed on November 20, 2001 and on November 30, 2001 is attached hereto. I can not definitely state the exact date the telephone call was placed or to which telephone number it was made. Additionally, the numbers dialed and the number recorded on the telephone bill are not always the same for a particular telephone call as calls can be switched or redirected.

7. I hereby declare that all statements herein of my own knowledge are true, that all statements made on information and belief are believed to be true; and further, that these statements were made with the

knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Date: April 4, 2002

Colleen M. Werner  
Colleen M. Werner



THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Curiel and Yamamoto

§ ART UNIT:

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FILED: December 4, 2001

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SERIAL NO.:

EXAMINER:

§

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FOR: Adenoviral Vector Containing Cyclo-  
Oxygenase-2 Promoter and Uses Thereof

§

§

DOCKET:

D 6384

The Honorable Commissioner of Patents  
U.S. Patent and Trademark Office  
P.O. Box 2327  
BOX PATENT APPLICATION  
Arlington, VA 22201

CERTIFICATE OF MAILING UNDER 37 CFR 1.10  
as governed by 37 CFR 1.6(e)

Dear Sir:

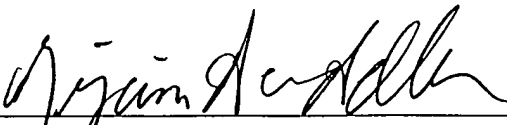
I hereby certify that the following documents, which are attached, are being deposited, under 37 CFR 1.10, with the United States Postal Service as Priority mail under 37 CFR 1.6(e) in an envelope addressed to: The Honorable Commissioner of Patents, U.S. Patent and Trademark Office, P.O. Box 2327, BOX PATENT APPLICATION, Arlington, VA 22202 as though deposited using the Express Mail "Post Office to Addressee" on the date indicated below:

- 1) Non-provisional application + 22 sheets of drawings;
- 2) Sequence Listing, Compliance Letter & CRF disk;
- 3) Transmittal Letter;
- 4) Two Combined Declarations and Powers of Attorney; &
- 5) Return postcard.

Please return the enclosed postcard acknowledging receipt of this correspondence.

Respectfully submitted,

DATE: Dec 4, 2001  
ADLER & ASSOCIATES  
8011 Candle Lane  
Houston, Texas 77071  
713/270-5391  
BADLER1@houston.rr.com

  
Benjamin Aaron Adler, Ph.D., J.D.  
Counsel for Applicant  
Registration No. 35,423

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Applicant: Curiel & Yamamoto

Serial No.:

Docket No.: D6384

Atty: BAA  
Date: 12/4/01

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|--|--|
| <input type="checkbox"/> Provisional Patent Application w/coversheet   | <input type="checkbox"/> Petition for Extension of Time ( <input type="checkbox"/> month(s)                  |
| <input checked="" type="checkbox"/> Sequence Listing w/ Compliance Letter <u>PCR</u>   | <input type="checkbox"/> withcheck for \$  |
| <input checked="" type="checkbox"/> Application for Patent including   | <input type="checkbox"/> Response to Notice to File Missing Parts  |
| <u>54</u> pages spec. claims <u>14</u>   | <input type="checkbox"/> Response to Office Action ( <input type="checkbox"/> RAR                            |
| <input type="checkbox"/> Request for filing ( <input type="checkbox"/> Continuation  | <input type="checkbox"/> Priority Document   |
| ( <input type="checkbox"/> Divisional  |  |
| <input checked="" type="checkbox"/> Drawings: <u>22</u> sheets ( <input type="checkbox"/> informal ( <input type="checkbox"/> formal | <input type="checkbox"/> Information Disclosure Statement  |
| <input type="checkbox"/> Check for \$  | <input type="checkbox"/> PTO form 1449   |
| <input checked="" type="checkbox"/> Certificate of Mailing 1.10  | <input type="checkbox"/> Notice of Appeal  |
| <u>as governed by 37 CFR 1.6(e)</u>  | <input type="checkbox"/> Appeal Brief <u>      </u> pages  |
| <input type="checkbox"/> Certificate of Mailing 1.8  | <input type="checkbox"/> Issue Fee Transmittal   |
| <input checked="" type="checkbox"/> Transmittal letter   | <input type="checkbox"/> Power of Attorney by assignee   |
| <input type="checkbox"/> Verified Small Entity Status Form   | <input type="checkbox"/> Affidavit or ( <input type="checkbox"/> Declaration ( <input type="checkbox"/> Oath |
| <input checked="" type="checkbox"/> Combined Declaration and Power of Attorney <u>(2)</u>  | <input type="checkbox"/> Application for Intent-to-use TM/SM   |
| <input type="checkbox"/> Assignment, w/check for \$  | <input type="checkbox"/> Application for TM/SM Reg. w/specimen   |

☒ Postcard

4A/4B/4C/4D, 5A/5B/5C, 6A/6B/6C/6D, 7, 3A/3B/3C/3D, 9A/9B/9C/9D, 10,  
11A/11B/11C/11D/11E/11F, 12A/12B/12C/12D/12E

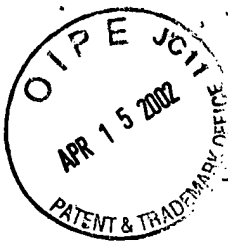
Other Figs. 1, 2, 3A/3B/3C/3D,



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Account Number  
713-270-5391-593-0  
December 13, 2001



Page 10 of 12

**Call Charges**  
(Continued)

Item	Date	Time	Place Called	Area	Number	Rate*	Min	Amount
94	11/19	09:38AM	ALEXANDRIA VA	703	305-2024	D	3:00	.00
95	11/19	03:36PM	SUNNYVALE CA	408	731-8000	D	1:00	.00
96	11/20	11:02AM	ALEXANDRIA VA	703	306-5880	D	4:00	.00
97	11/20	01:27PM	ALEXANDRIA VA	703	308-4426	D	1:00	.00
98	11/20	01:28PM	ALEXANDRIA VA	703	306-5881	D	2:00	.00
99	11/20	01:37PM	ALEXANDRIA VA	703	308-8362	D	2:00	.00
100	11/21	08:28AM	ALEXANDRIA VA	703	308-0899	D	1:00	.00
101	11/21	09:27AM	NEW YORK NY	212	639-5010	D	2:00	.00
102	11/21	01:48PM	BIRMINGHAM AL	205	975-9443	D	18:00	.00
103	11/21	03:28PM	GALVESTON TX	409	772-8348	D	1:00	.00
104	11/23	08:57AM	GOLDEN CO	720	318-5027	D	2:00	.00
105	11/26	09:02AM	ALEXANDRIA VA	703	308-4691	D	5:00	.00
106	11/26	11:49AM	ALEXANDRIA VA	703	308-4691	D	1:00	.00
107	11/28	08:25AM	ALEXANDRIA VA	703	305-7270	D	5:00	.00
108	11/28	11:09AM	ALEXANDRIA VA	703	305-7270	D	1:00	.00
109	11/28	01:24PM	ALEXANDRIA VA	703	305-6838	D	1:00	.00
110	11/29	01:09PM	GOLDEN CO	720	318-5027	D	8:00	.00
111	11/29	01:17PM	HACKENSACK NJ	201	343-1313	D	12:00	.00
112	11/29	02:01PM	NEWORLEANS LA	504	586-3946	D	1:00	.00
Total Domestic Calls for 713-270-5393								.00

Total Calls for 713-270-5393 .00

Total Call Charges 40.56

**Surcharges**

Description  
113 Fed Universal Service Fund

Account Number  
713-270-5391-593-0  
January 13, 2002



Page 9 of 12

**Call Charges**  
(Continued)

Total Calls for 713-270-5361 25.45

**Calls for 713-270-5392**  
Domestic

Item	Date	Time	Place Called	Area	Number	Rate*	Min	Amount
57	12/03	02:27PM	ALEXANDRIA VA	703	305-8047	D	1:00	.00

Total Domestic Calls for 713-270-5392 .00

Total Calls for 713-270-5392

**Calls for 713-270-5393**  
Domestic

Item	Date	Time	Place Called	Area	Number	Rate*	Min	Amount
58	11/30	10:59AM	ALEXANDRIA VA	703	308-1202	D	1:00	.00
59	12/04	08:52AM	NEW YORK NY	212	263-8043	D	1:00	.00
60	12/04	10:29AM	SAN JOSE CA	408	563-0788	D	2:00	.00
61	12/04	01:32PM	BIRMINGHAM AL	205	266-2868	D	13:00	.00
62	12/04	01:44PM	NEW YORK NY	212	639-6181	D	6:00	.00
63	12/05	08:34AM	ALEXANDRIA VA	703	308-8892	D	1:00	.00
64	12/05	09:13AM	ALEXANDRIA VA	703	308-0196	D	1:00	.00
65	12/05	10:04AM	ALEXANDRIA VA	703	308-8892	D	1:00	.00
66	12/05	04:27PM	AUSTIN TX	512	424-7293	D	4:00	.00
67	12/06	11:52AM	ALEXANDRIA VA	703	308-4357	D	5:00	.00
68	12/06	11:57AM	ALEXANDRIA VA	703	308-4357	D	3:00	.00

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